

AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE OF ORDINANCES BY ESTABLISHING AND ADOPTING A NEW ARTICLE VIII OF CHAPTER 74 ENTITLED "WETLAND PROTECTION REGULATIONS"; AND FOR OTHER PURPOSES.

WHEREAS, wetlands are indispensable and fragile natural resources that serve man and nature through the provision of habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood and erosion control; natural resource education; scientific study; and open space and recreational opportunities; and

WHEREAS, a considerable number of wetlands have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts; and

WHEREAS, the purpose of this ordinance is to establish measures to protect the quality and quantity of present and future wetlands by discouraging development activities that may adversely affect wetlands; and

WHEREAS, the City's Wetland Protection Ordinance was initially adopted as part of the 2000 Comprehensive Development Plan; and

WHEREAS, the City wishes to update the Wetland Protection Ordinance and codify it as Article VIII of Chapter 74 of the City of Atlanta Code of Ordinances to be known as "Wetland Protection Regulations" in order to continue compliance with O.C.G.A. 12-2-8.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS AS FOLLOWS:

Section 1: That Article VIII of Chapter 74 of the Code of Ordinances entitled Wetland Protection Regulations is hereby established.

Section 2: That the text for the new Article VIII, Wetland Protection Regulations, shown in Exhibit A, is hereby adopted in its entirety.

Section 3: That the Generalized Wetland Map (Exhibit B) referenced in the text of Article VIII, Wetland Protection Regulations, is hereby adopted, and incorporated into and made a part of Article VIII, Wetland Protection Regulations, by reference.

Section 4: That the Generalized Wetland Map (Exhibit B) shall be kept on file in the office of the Municipal Clerk.

Section 5: That the Department of Watershed Management may produce more detailed maps to use in the administration of this ordinance as long as the wetlands and wetland boundaries shown are consistent with those shown on the Generalized Wetland Map.

Section 6: That the Municipal Clerk is hereby directed to transmit a copy of this Ordinance to the Commissioner of the Georgia Department of Community Affairs and to the Chairman of the Atlanta Regional Commission immediately upon its approval by the Council and Mayor of the City of Atlanta to demonstrate continued compliance with O.C.G.A. 12-2-8.

Section 7: That the Department of Planning and Community Development is hereby directed to update the City's Comprehensive Development Plan by removing the Wetland Protection Ordinance and replacing references thereto with references to Article VIII, Wetland Protection Regulations.

Section 8: That all ordinances and parts of ordinances in conflict herewith are hereby repealed.

Exhibit A

Chapter 74, Article VIII: WETLAND PROTECTION REGULATIONS

Sec. 74-401. Purpose and Intent.

The intent of this article is to protect the environmental integrity of freshwater wetlands within the City of Atlanta. The purpose of this ordinance is to promote wetlands protection, while taking into account varying ecological, economic development, recreational and aesthetic values. Activities that may damage wetlands should be located on upland sites to the greatest degree practicable as determined through the permitting process.

Sec. 74-402. Definitions.

For purposes of interpreting this article, the following definitions shall apply:

Jurisdictional Wetland Determination means an official, written statement or map signed by the U.S. Army Corps of Engineers as required by Section 404 of the Clean Water Act.

Jurisdictional Wetland means a wetland area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

Wetland Delineation means the establishment of wetland boundaries by a representative of the U.S. Army Corps of Engineers or an authority designated by the Corps.

Wetland means an area inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Sec. 74-403. Coordination with the Army Corps of Engineers Wetland Permitting Process.

This section is included pursuant to the requirements of O.C.G.A. 12-2-8 and is intended to provide applicants for a development or demolition permit with notice when the proposed activity may require a U.S. Army Corps of Engineers permit due to potential impacts upon jurisdictional wetlands, and to coordinate the City permitting process with the Corps of Engineers permitting process.

(a) Permitting Process. Prior to the issuance of a development or demolition permit, the Commissioner of the Department of Watershed Management, or designee, shall review plans; verify the certification required in Sec. 74-403 (c) below; and determine if the applicant is to be referred to the Corps of Engineers for a jurisdictional wetland determination. As a general rule, applicants and landowners should endeavor to avoid development and/or demolition activities in or near wetlands.

- (1) If the proposed activity is not located within 50 feet of a wetland shown on the Generalized Wetland Map, City permitting procedures shall proceed.
- (2) If the proposed activity is located within 50 feet of a wetland shown on the Generalized Wetland Map, the Department of Watershed Management shall

Exhibit A

refer the applicant to the U.S. Army Corps of Engineers for a jurisdictional wetland determination and receive proof of such determination from the Army Corps of Engineers prior to the issuance of any City development or demolition permit.

- (i) If the Corps of Engineers determines that a Department of the Army permit or Letter of Permission is required for the proposed activity, the City shall not issue a development or demolition permit for the proposed activity until after the issuance of the Department of the Army permit or Letter of Permission.
- (ii) If the Corps of Engineers determines that the proposed activity does not require a Department of the Army permit, City permitting procedures shall proceed.

(b) Generalized Wetland Map. The Generalized Wetland Map is hereby incorporated into and made a part of this article by reference. Wetlands shown on the Generalized Wetland Map do not necessarily represent the boundaries of jurisdictional wetlands and cannot serve as a substitute for a jurisdictional wetland determination or a delineation of wetland boundaries as required by Section 404 of the Clean Water Act, as amended. No action by the City of Atlanta pursuant to these regulations relieves the landowner or applicant from Federal or State permitting requirements. The Generalized Wetland Map may be amended as more detailed information regarding the exact location and boundaries of wetlands becomes available. Not all wetlands in the City of Atlanta may be shown on the Generalized Wetland Map and the omission of wetlands from the Generalized Wetland Map does not relieve the applicant or property owner from compliance with applicable laws regarding wetlands.

(c) Additional Requirements. Upon application for a development or demolition permit, applicants shall be required to certify that they have reviewed the Generalized Wetland Map and to certify whether or not the proposed activity is to occur within 50 feet of a wetland shown on the Map. The City of Atlanta may require additional information deemed necessary to verify compliance with the provisions of this article.

Sec. 74-404. Monitoring and Enforcement Procedures.

- (1) If the City of Atlanta discovers a violation of this article that also may constitute a violation of any provisions of the Clean Water Act as amended, the City of Atlanta shall issue written notification of the violation to the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers.
- (2) The Commissioner of the Department of Watershed Management and/or his designee is authorized and empowered to enforce the requirements of this article in accordance with the procedures of this section. The

Exhibit A

Department of Watershed Management shall have authority to issue stop work orders, citations, and/or revocation of permits in the event of any violation of this article.

- (3) Any enforcement activities for violations of the provisions of this article which are also violations of article II and III of chapter 74 for land-disturbing activities shall be undertaken pursuant to the provisions of article II and III of chapter 74.
- (4) Any enforcement activities for violations of the provisions of this article which are also violations of chapter 158 for vegetation shall be undertaken pursuant to the provisions of chapter 158.
- (5) In addition to any other sanctions listed in this article, a person who fails to comply with the provisions of this article may be liable to the city in civil court for any costs incurred by the city to enforce or correct violations of this article.

Sec. 74-405. Severability.

Should any section, subsection, clause, or provision of this article be declared to be invalid, such decision shall not affect the validity of this article in whole or any part thereof other than the part so declared to be invalid.

LARGE ATTACHMENT:

DOCUMENT(S),

MANUAL(S)

OR

MAP(S)

NOT COPIED,

PULL ORIGINAL

FOR COPY OR TO VIEW